V

AN INTRODUCTION TO THE STUDY

OF THE

CONSTITUTIONAL AND POLITICAL HISTORY

OF THE STATES

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AN INTRODUCTION TO THE STUDY OF THE Constitutional and Political History of the States

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I.

Three years ago, when I first visited the library of the Department of State at Washington, the Constitution of the United States was kept folded up in a little tin box in the lower part of a closet, while the Declaration of Independence, mounted with all elegance, was exposed to the view of all in the central room of the library. It was evident that the former document was an object of interest to very few of the visitors of Washington. But when I was last in the library, I learned that the Constitution also was being mounted in order to be similarly placed upon exhibition, because, as I understood it, there was a more general desire to see it. It seemed to me that this incident is typical of a considerable change which the last few years have seen in our way of looking at American history. The interest which during most of the years of the republic has been nearly confined, so far as

[1] These three papers were prepared at first without any thought of publication for the historical seminary of the Johns Hopkins University, before which they were read on January 9, 23 and 30, 1885; I have thought it as well that they should retain a form which to some extent shows their original purpose. The first of them was read before the American Historical Association at Saratoga, on September 10, 1885.

the popular mind is concerned, to the more dramatic episodes and portions of our history, and has made histories of discoveries, histories of settlements, and pictorial field-books of our various wars the most popular historical works, is now at last being extended to our constitutional and political history, which, with little picturesqueness, is yet capable of being, to a mature and thoughtful American mind, of all parts of history the most interesting. Certain states of politics are peculiarly favorable to the production of historical work of a high type. Our politics are now in such a state. Questions necessarily arousing violent partisan passions have no longer the foremost place. The questions which are most prominent, questions of administration and finance, are precisely those to the solution of which history is most directly useful. And not only the quality of the present interest in politics, but its quantity, is favorable to us. The last few years have witnessed, side by side with the incipient decline of the machine politics of the first twelve or fifteen years after the war, a great awakening of interest in politics proper among the more intelligent young men of the country. For instance, at the commencement of one of our largest colleges attended last year, the subjects of one-half of all the orations delivered by the young men were political; five years ago political orations by the students were almost unknown. The times are thus ripe for a more assiduous study of our constitutional and political history. In the present paper and one or two subsequent papers it is intended to point out the importance and urge the cultivation of a singularly neglected portion of that history.

The history of political institutions and events in the United States is divided into three parts,—national, state, and local. It cannot be asserted that there is not a great need of good work in the national and local fields, but something has been done in both. The most neglected field in American history is the field of state history,—the constitutional and political history of the individual states. Any bibliography will show

that there is an astonishing barrenness even in the case of the older states, whose history might be supposed to present most of interesting incident to the general reader of history. An examination of the books themselves will give rise to still further surprise. Not only are they usually below mediocrity in character, deficient in research, deficient in perspective, hopelessly myopic and parochial, but they do not even make an attempt to cover in point of chronology the whole ground. Almost invariably they are confined to the colonial period and the revolutionary war. For instance, a certain popular history of Virginia gives four hundred pages to the colonial and revolutionary period and the civil war, and about fifty to the period between 1789 and 1861; that is to say, the author considers one-ninth of his volume a fair proportion to devote to that period in which the influence of Virginia was greatest, and her history best worth considering. So it is with the state historians generally. They seem to belong to that singular class of historical writers who think it advisable to give no very full account of the recent history of any country, but wiser to stop the narration of English history at Waterloo, and that of France at the Revolution, which proclaims the utility of historical study on the ground that only the study of the past can enable us to understand the present, and then neglects all that part of the past which is most necessary to an understanding of the present, namely, the immediate past, thus reversing the laws of perspective by drawing the foreground on the smallest scale. It is to be hoped that this theory of the importance of all centuries but the nineteenth, if that can be called a theory which is apparently a feeling based on timidity and indolence in the presence of new and difficult tasks, will speedily become obsolete, and that the opposite view, supported by the, at least respectable, examples of Herodotus, Thucydides and Tacitus, Hooft, De Thou and Father Paul, will in time prevail. When that view is adopted, the relative importance, in the history of politics, of colonial history and state history will be appreciated.

It seems the merest commonplace to say that the preservation of due proportion between the parts in the constitutional history of any country depends upon a correct sense of the proportions between the various factors in its constitution. But obvious as this principle is, it is not always applied. Students know that the part played by the Church in the life of mediæval England was far greater than its present part; yet how many of them devote a proportionate amount of attention, in their studies of the history of England in the middle ages, to its ecclesiastical polity? A similar failure to make this application seems to be at the bottom of our astonishing neglect of state history. We fail to perceive that the peculiarity of our governmental institutions makes necessary a peculiar distribution of attention in treating of their history, as if, like Samuel's Israelites, we could not get used to the idea of not being governed like the nations around. We know, when we stop to think of it, that our constitutional life has been lived quite as much in the state as in the nation, in the branches as much as in the trunk, that the life of the average citizen has probably more points of contact with the life of the state government than with that of the central government, that indeed there have been times in our history when the latter bore to the former a relation not entirely different from that which the last Carolingians bore to the Dukes of France, Normandy and Lorraine. But when it comes to writing our constitutional history, we neglect all this, and proceed as if the United States were as centralized a unity as modern France. To illustrate this point, let us look a moment at the recent constitutional history of England. The most important constitutional measures of the last sixty years have been, we may say, the parliamentary reform acts of 1832, 1867 and 1884, the municipal corporations reform acts, the new poor law, the removal of Catholic disabilities, the abolition of church-rates, the commutation of tithes, the acts for the organization of elementary education, the reform of the universities, the succession of changes effected in the

tenure of land, the ballot act, and the disestablishment of the Irish Church. Now imagine all this legislation transferred to America. A moment's reflection will convince that, with the exception of some minor provisions (such, for instance, as those for redistribution), absolutely every one of these enactments would in this country have been made by state legislatures, or possibly state conventions, and not by the national legislature. And yet the history of the constitutional action of these legislatures and conventions, and the whole course of the constitutional development of all these states during the last hundred years, remains practically unknown to us. Even if the history of the general goverment were alone worthy of attention, the great influence of the states upon the life of the national constitution would cause them to deserve fuller investigation than they have ever yet received. But as it is, it is no exaggeration to say that the half has not been told us, and that the constitutional history of the United States never has been written, and never will be written until scholars, well-trained in historical learning and mature in political thought, take up the constitutional history of our commonwealths, one by one, and show the world the treasures of political instruction to be derived from them.

More has been said thus far of work in constitutional history than of work in political history, not because of a belief that there is more to be done in the former, but because it is more important to the practical and didactic purpose which has led to the writing and publishing of this paper, the purpose, namely, of urging upon the members of the historical seminary of the Johns Hopkins University, and then upon other young historical students, the undertaking of some work in this still unharvested field. To write a great constitutional history is no doubt as difficult as to write a great political history, but it is easier to find in the former department minor tasks which may be undertaken in the earlier years of our studies than in the latter, just as pieces of investigation suitable for younger men may perhaps more easily be found in

anatomy than in physiology. But the history of state politics must be written; perhaps indeed it is even more urgently needed than the history of state constitutions. For the distortion which its neglect has produced in the popular view of our history is equally great, and there is another reason which may not unreasonably be thought still more important, arising out of still another failure to adjust the composition of our histories to the facts of our government. We have not seen that, where the government is a government of the people, it is essential that the history be the history of the people, that, in fact, the history of a democracy ought not to be an Iliad. Our political histories have for the most part been Iliads; they are filled with the deeds of the chieftains "wise in council," "fertile in devices," "kings of men," or even, in a humbler sphere of usefulness, "good at shouting," *βοὴν ἀγαθοί*, while the rest of the well-greaved Achaians stand in their ranks unnoticed and unsung. There are signs of a change; McMaster's "History of the People of the United States," with all its faults, is such a sign; its general purpose is most commendable. But the true history of our nation will not be written until we can obtain a correct and exhaustive knowledge of the history of public opinion upon politics, the history of the political views and actions of the average voter. Now these views and actions for the most part appear in a local sphere, and can be exhibited best by the study advocated in this paper, the study of the history of state politics. For instance, suppose that we wish to understand the greatest event of our earlier political history, the gradual triumph of the republican party over the federalists. We shall never acquire a perfect knowledge of that great change, or even of the election of 1800–1801, by studying only those events and those characters which were great enough to occupy a conspicuous place in the wide theatre of national politics. We must go below the surface, and as soon as we go below the surface we find that there are many minor currents, the currents of state life, which have joined to form the great result-

ant movement. These minor currents, merely eddies sometimes, must be studied. If we are attempting to discover the causes which gave this or that issue to a recent presidential election even, we do not think of being satisfied with an explanation expressed, so to speak, in terms of national politics only; we ask ourselves: What influences worked upon the mind of the average voter in Ohio, leading him, with whom the decision rested, to decide thus? What combinations of circumstances so affected the political molecules in Massachusetts or in Virginia as to give a new complexion to the political tissue? How was New York carried, and how Pennsylvania? Just so if we are discussing the great political change of eighty years ago. The actions of the leaders are already well known; if the change in the opinion of the mass of voters is to be investigated, it can best be done by the study of local movements. What were the influences that gradually converted the rank and file in Massachusetts and Connecticut? Why did Delaware so long remain Federalist? The answers to such questions as these are not easily obtained. The future historians of our states must not only laboriously ransack the printed histories and annals of states and counties and towns, the archives of the former, and the newspapers of the latter; but if they would get down to the real facts of the political history of the people, they must examine the masses of county and town and court records, and what of private correspondence has been preserved, and leave no stone unturned in the effort to reproduce exhaustively the course of democracy in our country. But the enormous pains required will be well rewarded; for, as the result, we shall have at last the history of the people of the United States, written with some recognition of the fact that our national name is plural.

I shall perhaps be told that the history of the states is so closely bound up with the history of the federation itself, that the former if related apart from the latter is left incomplete and loses half its meaning. I reply that it is equally true that

the latter if related apart from the former is left incomplete and loses half its meaning. This is what we have been doing; let us try the effect of light polarized in another plane. Or perhaps it will be said that the states are vanishing quantities. Probably they are; but institutions of the past, even those that are obsolete, are necessary objects of historical investigation if they have been strongly influential in making the present what it is. Nor would it be unreasonable to desire that work upon state history should do something to direct attention more strongly to the importance and value of our state governments, now that the danger from extreme state-rights theories has been succeeded by a pronounced danger from the opposite quarter. Teachers of history will find an increasing number of pupils who intend to engage in politics. Is it not as well to direct their attention to the fields of usefulness which state politics present, a field wherein tangible results can more probably be reached than in the wider arena of national politics, where none but the heaviest cestus has much chance of making itself felt?

II.

It is the object of the present paper to present some illustrations of the subject already discussed, drawn from an examination of the constitutions of the states,—more especially those framed during the revolutionary period. One who carries his research little beyond the bare text of these fundamental laws gives, I am aware, but a narrow basis to his study of the constitutional history of our states; yet, if time fails him to exhaust all sources, as his ideals would exact, it may not be entirely unprofitable to him to study one source, provided he bears in mind how partial must be the views thus obtained. For the states have, no less than the general government, unwritten constitutions. The form of our government in 1885 is widely different from its form in 1789; the brief document called the constitution of the United

States remains the same. The executive departments have doubled in number. Their heads have decreased in power. The spoils system has risen and declined. The senate, from a small executive council of ambassadors debating with closed doors, has come to have fully the position of an upper house of the legislature. The standing committees of the House and Senate, unknown in the earlier years of the government, have now come to control it. The speaker of the House has become, next to the President, the principal officer of the republic. The electoral college has become an obsolete organ, which either avails nothing, or avails occasionally to disturb and pervert the function which it was originally designed to subserve, like that singular result of evolution, the *appendix vermiformis*, whose only present office is occasionally by obstruction to produce acute peritonitis. Yet of all these momentous changes, every one of which is an important alteration in our constitution, the few pages of print called by that name bear no trace. The same can be said of the real constitutions of the states. But it does not hold true to anything like the same extent. The state constitutions have been for the most part much more detailed, they have been subjected to much more amendment, and have from time to time been replaced by new constitutions. So it is not likely that in the constitutional history of the individual states we shall often find changes so great as those which have been mentioned occurring without leaving some trace in the fundamental document. When we see that of the older states, whose constitutions antedate the beginning of this century, nearly a half retained the same constitutions unsuperseded from that time until after the civil war (three of them indeed until the present time), that the average duration of American state constitutions has been thirty years, while ten of them have lasted more than sixty years, we feel sure that, during the continuance of many of these, changes in the actual form of government, sometimes perhaps changes of importance, have occurred which are not to be found registered

in amendments, but must be sought in the statute books, in the law reports, or even traced by means of the newspapers, the daily records of state development. Yet we shall not in most cases go quite wrong if we take into account only the state constitutions and their amendments.

The *formal* aspects of our state constitutions present some points of interest. For instance, it is interesting to observe the evidence of growing stability afforded by the fact that their average duration has been increasing, and not diminishing, as perhaps most persons would suppose. But on the other hand there has been an ominous increase in length. The first of the state constitutions, the New Hampshire constitution of 1776, covers little more than a single page in Major Poore's edition; the constitution of 1875 for Missouri occupies rather more than thirty-three pages; printed in duodecimo it would make a sizable volume. Nor is this tremendous document at all unique; the last constitutions of Maryland, Texas and Arkansas are nearly as long. Indeed, the instruments of government framed since the war are about three times as long as those of the revolutionary period. This change seems due to a desire to include in the constitution a mention of everything, from the name of God, often dragged in in an inappropriate and even silly manner, down to barbed fence-wire, city alley-ways, and historical paintings in state-houses. It is interesting to observe, it would perhaps be not unprofitable to investigate, the growth of this tendency to comprehensiveness, a tendency which is one of the most striking facts in the history of American constitutions, and, one may well think, one of the most deplorable. For when we introduce minor details into such an instrument, we are introducing temporary elements, which will necessitate frequent amendments. And nothing can be more certain than that the practice of frequent amendment must in time impair the reverence with which constitutions ought to be regarded, lower their authority, and introduce into our governments a most undesirable instability.

So much for matters of *form* which admit of profitable study. As to the *substance* of American constitutions, two methods may be pursued. We may follow down the constitutional history of a given state, or we may make a comparative study of the state constitutions of a given period. Perhaps to follow the latter method may most easily serve the purpose of the present paper, which is not to present the results of a careful examination of any portion of history, but to suggest lines of inquiry to others. In the revolutionary period all the states except Connecticut and Rhode Island formed new constitutions. Here, accordingly, the opportunities for a comparative study are full. If I were urging a student to such study, either with a view of producing some contribution to historical science, or simply in order to enlarge his own knowledge, (and for the one purpose or the other, one ought certainly to recommend every student of our constitutional history to pay some attention to this subject), I should say to him, study first of all the declarations of rights which are prefixed to these constitutions, or, in some cases, included in them. For these, more than any other portions, exhibit the principles of the Revolution. We see in them how great was the influence of the Revolution of 1688; the very words of some parts of the Bill of Rights are again and again repeated. We see everywhere appearing the influence of the contemporary or recent political philosophy of France and England, of Montesquieu especially, and Locke and Rousseau. But besides these influences from England and France, we see the workings of colonial conditions of life; we see what were the grievances that seemed largest to the revolutionary party, the eagerness to provide for the liberty of the subject, the dislike of the military, the odium of general warrants; we see how strong had already become the tendency to democracy. Here, too, we find light thrown upon the progress toward religious equality, toward new relations between church and state.

The comparative study of the forms of government at that time adopted, in obedience to the suggestions of Congress,

will prove not less remunerative than that of the declarations of rights. From the year 1776 to the year 1780 an extraordinary amount of attention was given by the inhabitants of the colonies to the then new task of constitution-making; the results, the expedients adopted, now singularly wise, now singularly crude, furnish food for much investigation, thought and comparison. Into such a comparison, however, I shall not enter; for its details would be tedious if expressed with the condensation here necessary.

Again, the subject of the origin of each of these first constitutions is one of the greatest interest, and one which has received surprisingly little attention. Hegel, in criticising Schelling's system, said that in it the absolute was, as it were, shot out of a pistol. It is somewhat so with American state constitutions in most historical works. No considerable effort is made to deduce their origins; they spring full-armed from the heads of Olympian conventions. The investigation is indeed no easy one. The factors of the final result are in general four. First, the constitution of England, or what the fathers thought to be the constitution of England. Second, the political philosophy of the time, prevalent among the people, derived from both England and France. Third, the ideas as to the needed form of government which the leading statesmen really originated and then caused to be adopted. Fourth, the already existing constitutions of the colonies. I do not mean simply the meagre provisions of the charters; for these had undergone a great development, like willow stakes that have been set out, hard and smooth and geometrical, by the shore of the ocean, but have there sprouted and grown into living trees. These constitutions, with their written and unwritten elements, constitute, perhaps, the chief of the factors, certainly the least thoroughly known. At all events, these four are the factors to be considered; and the task is, to discover the proportions in which each is present in the constitution as it came finally from the hands of the state convention. Thus, in the case of Virginia, we know that

the preamble to the Declaration of Rights was taken from a draft sent on from Philadelphia by Jefferson, that the declaration itself was written by the admirable George Mason, and but slightly amended in the convention itself. We know that, some months before, Richard Henry Lee and George Wythe had at different times asked the advice of John Adams as to the form of government to be adopted, (as was also done by the patriots of North Carolina and New Jersey), and we have the brief note which he wrote to the one, and the letter afterward written to the other which was printed anonymously as a pamphlet. We have the reply to this contained in the anonymous Address to the Convention, by Carter Braxton, and Patrick Henry's letter, commenting upon the two. We have much interesting information upon the characters and lives of the members in Grigsby's Phi Beta Kappa Address, and we have the Journal of the Convention. With these materials and the manuscript treasures of Washington and Richmond, it ought to be possible for a ripe scholar, who understands well the Virginian character and the signs of those times, and is thoroughly learned in the workings of the institutions of Virginia in the times just previous to the revolution, to effect a satisfactory solution of the profoundly interesting question of the real derivative sources of the Virginia constitution of 1776, to analyze this new compound into its component parts. Such a solution we do not now possess in the case of any of the state constitutions, so far as I know. We have much personal description of the various conventions, much vociferous panegyric of their work. Personal details and vociferous panegyric have played far too large a part in American historiography; the time has come for something more solid. Shall we believe that the new forms of government were called into being by the creative fiat of statesmen (to judge from the language of some historical writers the class of statesmen must have been phenomenally large in 1776, embracing, one would estimate, about one-tenth of the adult male population of America), or shall we set ourselves

seriously to study the transition as a piece of sober constitutional history, rejecting, at whatever sacrifice of our feelings, the theory of direct verbal inspiration, and patiently investigating in order to discover exactly how great and of what sort the transition was?

Another matter of great interest and importance, and well deserving investigation, is the influence of the state constitutions upon the formation of the federal constitution. Let us for a moment banish from our minds the history of the last hundred years, and try to realize how new a thing the making of written constitutions then was. If we except the makers of the Instrument of Government and of the Humble Petition and Advice, no body of Englishmen in the mother country had ever done such a thing; no body of Englishmen on this side of the water had ever done quite such a thing, except, in the early days, for very small settlements, until eleven years before the Philadelphia Convention. When, therefore, that convention assembled, virtually the only experience on which the members could draw in prosecuting the work before them was that of the state conventions of the last dozen years. And in those conventions at least a third, very likely a half, of the members of the Philadelphia Convention had taken part. It would be very strange if we did not find many traces of the influence of the discussions and results of these conventions. And in fact these do appear again and again. The Virginia plan read by Governor Randolph, slight sketch as it is, shows the influence of the constitution of his state. The very name of the senate is derived from that constitution. Evidences of such influence naturally enough appear with especial frequency in the details of the provisions adopted or suggested. The Pennsylvanian opposition to a bicameral legislature is such an evidence. Hamilton's (supposed) design of having the senate elected by freeholders only was borrowed from the constitution of his own state. Gorham's suggestion that the appointment of judges by the President be subject to confirmation by the

senate was based on arguments from the constitutional history of Massachusetts. Mason and Ellsworth's advocacy of ratification by conventions was founded on recent experience. These instances, taken at random, will perhaps suffice; one could find many more. Indeed, I have even heard it maintained that all those parts of the work of the Convention of 1787 which have proved successful were borrowed from the constitutions of the states, and all those parts which were new have proved failures. As to the first ten amendments to the Federal Constitution, it is unnecessary to do more than allude to the manifest and well-known influence which the Virginia Declaration of Rights and the imitations of it in other states had upon them.

III.

In the first of these three papers allusion was made to the desirability of making more effort to get at the real political history of the masses of the American people. It will be generally felt that the principal difficulty in the way of such attempts is the paucity of reliable materials bearing upon the political history of the less articulate classes. The object of the present paper is to give some evidence in support of the opinion that one particular class of sources, perhaps not much regarded hitherto, would on thorough examination be found to yield materials of considerable value for historical work of just this sort. I refer to local records, more especially the town records of the North. The belief has been expressed in a previous paper that much of our national history must be sought in state sources; it is now urged that local sources may be made of great use to the history, in the revolutionary and post-revolutionary periods, of the individual state and thus of the nation. The average political unit of that day wrote few letters, and these said little of politics. The newspapers furnish but a very partial and imperfect reflection of public opinion upon politics. But in the town records we

get a genuine, and sometimes a tolerably full expression of the popular mind. Sometimes ill-written, sometimes not perfectly grammatical, they bear evidence upon the very first inspection that they have at least that value which springs from perfect authenticity; that they bring us close to the real thoughts of the people. Seldom indeed do we get so good a chance to see the non-literary classes thus unconsciously self-registered.

It may be thought that these records are full of nothing but parochial matters—the election of hog-reeves, the seats in the meeting-house, the school-house at the north end, the highway by Dea. Smith's house, the minister's salary and firewood. Certainly they do contain much that is trivial. But two things must be said on the other side. In the first place, by combining many such data, obtained from different towns, we get a solid basis not only for a description of society at any given time, but for a description of the constitution, or, at any rate, of those numerous departments of human life which are common to social history and to constitutional history. Thus, it is of no especial consequence how the quarrel between the Rev. Mr. Parsons and his parishioners at Amherst as to his salary turned out; but if we have data from a hundred different towns as to the dealings of ministers and parishioners with each other, we have some evidence which will help us to form an opinion as to the position and power of the ministers in society and in the state.

But, still further, the town records are by no means confined to casting these indirect and side lights upon the history of state and nation. They contain much that bears immediately upon politics of a wider scope—much direct action and expression of opinion. He who thinks this improbable should remember what the towns of New England were. No one who knows them can fail to see that each of them has had an individuality and a life of its own. Mr. Howells has admirably described Lexington, Mass., as a typical New England town; but let no one suppose that Woburn, on the one side,

and Arlington, on the other, are towns exactly similar. The very map of the Massachusetts towns, with their singular irregularities and varieties of outline, seems to betoken an individuality on their part which it is difficult to suppose existing in regular square subdivisions designated as township number seven, township number eight, Brandnew County. The old New England towns were not so much subdivisions as component parts of the state, each with a mind of its own; witness the singular theory of town autonomy developed during the Revolution in a part of New Hampshire, as exhibited by Mr. John L. Rice's article in the Magazine of American History for January, 1882. As component parts, with minds of their own, they took an interest in the politics of the state and the continent; and of this interest the town records bear traces in greater or less abundance.

Perhaps I may enforce what I have said upon the first of these two heads by illustrations suggested to me by the records of one New England town, which I examined with great care in the process of preparing a part of them for publication. It was plain enough, for instance, that the fathers of this town had a great reverence for rank and position; thus, titles are at first given carefully and very sparingly, though their number increases gradually, especially after the Revolution. It seemed to me that by putting together incidental touches, here and there occurring throughout these records, I got valuable indications of the original strength and extent of aristocratic influences in the town, and could trace with some degree of exactness the progress of their decline; and it seemed probable that if the records of all the other towns were equally accessible, one might, by combining their data, obtain a firm basis for general conclusions as to the history of the aristocratic factor in the social and political constitution of the whole commonwealth, in short, as to the progress of democracy. Again, it became clear to my mind that the Revolution was, so far as this town was concerned, distinctly a movement of the lower and middle classes. The men who have been

hitherto most prominent in the management of town affairs drop into the background. The squires fall under suspicion and disfavor. One is deprived of his arms, with the other the town is involved in litigation. The conduct of the parson is voted inimical to the interests of the United States. A new set of leaders comes forward, men who have hitherto been far from prominent in position, and, one feels sure, men of less education than those who preceded them, for the documents of the town, unconsciously bearing witness of their constructors, become at this time distinctly more illiterate. Of course these hints from one town can give us no valid conclusions. But if such an examination were sufficiently extended, it would, I feel sure, throw valuable light upon the character of the two parties to the great conflict. It would show us what sort of man became a Tory, what sort of man joined the party of revolution, and afford us no inconsiderable help in judging the merits of the two causes. Our conclusions might not at the end be entirely new, but they would be based on testimony for the most part unimpeachable, because unconscious; and this would be no slight advantage. Again, upon the state of society and the political situation a few years later, much light was thrown by the records of this town for the period of Shays' Rebellion, and I presume that other town records would give even more.

As to the second kind of help, that afforded by notices of direct action or expression of opinion upon matters of state or national politics, it is certainly not so often given. The voice of the town-meeting is seldom heard in these affairs, except at such crises as the Revolutionary period, Shays' Rebellion, the time of strained relations with the Directory, the period of the embargo. But when it does speak, it is always instructive, a truly original and primary expression of public opinion. It may not be useless to attempt to indicate with some particularity the sort of help which can come from this source to the student of state history by a single instance. The example which I shall choose is, the reception by the voters

of the proposed constitutions of Massachusetts. It will be necessary first to give a brief outline of the history of those constitutions. At first the province, acting under the advice of the Continental Congress, had governed itself according to the provisions of its old charter, with the substitution of an executive council for the governor and lieutenant-governor. This method of government proving inefficacious, a committee of the General Court was appointed in June, 1776, to prepare a new frame of government; but it did not carry the matter far. In September, and again in the next May, the House recommended their constituents to invest the deputies chosen to the next General Court with power to construct a form of government for the state. In a majority of cases this was done, and in the next session a committee of four members of the Council and eight members of the House was appointed to prepare a constitution. They prepared a draft, which, on being approved by the legislature, was submitted to the people in March, 1778, but was rejected by a vote of about ten thousand to two thousand. In 1779 the vote of the people was taken on two questions;—first, whether they would choose at this time to have a new government at all; second, whether they would empower the legislature to summon a special convention for this purpose. Assent was given, and a convention was called, which met at Cambridge on the first of September. The committee of thirty chosen by it delegated the duty of preparing a draft to a sub-committee of three, and these in turn confided the task to John Adams. The constitution finally prepared was much more largely his work than that of any other man. It was accepted in 1780, and has been in operation ever since, the most durable of all those American constitutions of which its chief author afterward wrote the defence.

Now, what illustrations of these events do the town-records supply? In the first place, we see such towns as Ipswich, Gloucester and Plymouth, already in 1775, urging the framing of a new government or the amendment of the old.

When, in October of the next year, the suggestion of the General Court that its members be empowered to frame a constitution is submitted to the town-meetings, the votes of the latter become, in some instances, highly instructive. The town of Norton gives, as its reasons for not consenting to this proposal: "1stly, that the present House and Council were not separately elected by the people for that special purpose, which we think it highly reasonable they should be in a matter of such importance; 2dly, the requisition of the Honorable House being so pregnant with power, we cannot think it will be conducive to the future good of the people to comply with their proposal;" a jealousy, it may be added, quite characteristic of the farmers of old Massachusetts. Andover town-meeting, in its instructions to its representative, alleges still other reasons, that "some of the ablest men, who have a peculiar right to a voice, are absent in the field or at Congress," and that it is no time when "foes are in the midst of us and an Army at our Doors to consider how the country shall be governed, but rather to provide for its defence." "We therefore conclude that to set about the forming a New Constitution of Government at this time is unnecessary, impolitic and dangerous; and it is accordingly our direction that you oppose it with those solid arguments of which the subject is so fruitful, and that you do it vigorously and perseveringly." Lexington expresses its opposition in an able document, which was probably written by the minister; but this will probably be thought too little the spontaneous expression of the popular mind to be here quoted. A vote against which this objection certainly cannot be made is that of the small inland community of Townshend; its very lack of a predicate is sufficient evidence that it is a genuine instance of the kind of expression we are seeking. After refusing the desired permission to the legislature, the town votes "That the act made by the late house respecting representation, by which the privilege of many towns is much enlarged, which we think gives the maritime towns a material

advantage over the country towns, as the court is held at that side of the state, by which we think the mercantile part of the state has a dangerous advantage over the land part; we therefore" wish the former mode of representation restored. We see also something of the political character of a "hill-town" in the suggestions which Warwick makes to its representative. They desire that the legislature shall consist of one chamber (one of the coast towns was about the same time instructing its member to make sure that there were two chambers), that each town shall have one member, towns of the largest class not more than four or five, the rest in proportion, that suffrage shall be universal, that a town shall have the right to recall its member at any time on evidence of misconduct, and that at no time shall less than eighty members constitute a house.

Though the quotations made come only from the towns opposed, it will be remembered that these were in a minority. When, however, the projected constitution of 1778 was submitted, its opponents were a majority; the principal objections made were, that it contained no declaration of rights, that it did not secure equality of representation, that it placed no limitation upon the reëligibility of the Supreme Magistrate and the members of the General Court, did not sufficiently ensure the mutual independence of the executive and legislative, nor provide for adequate amendment by the people. In short, it was thought to be too much what in those days was called "a high-toned government." It appears that the coast towns were almost unanimously opposed to it. Among the farming towns it seems, from the data which I have, to have found favor chiefly with towns of one particular class, namely, ancient and conservative towns which a few years later exhibited a decided disapproval of the plebeian and Adullamite insurrection under Daniel Shays, and after the formation of the national government are found adhering to the Federalist party. I may add that they were in part the same towns that are found gravitating to the Unitarian

side in the great theological division a generation later. With a fuller accumulation of facts, it would be interesting to work out the connection which I believe existed between these various predilections.

Both at this and at other times a great difference is noticeable in the degree of interest taken in political matters by different towns and sections of the state. In Hardwick and Rowley nearly all the voters must have been present at the town meeting, (at least in 1780), in the Cape towns but a small proportion. Foremost, perhaps, in interest in politics were the coast towns of Essex County, and here the constitution of 1778 was most decidedly rejected. At Newburyport the town voted that the selectmen should write circular letters to the several towns within the county, proposing a convention of delegates from these towns to consider the proposed constitution. A few refused to send. From the rest, some of the most prominent citizens assembled at Treadwell's tavern, in Ipswich, and instituted an elaborate examination of the intended constitution. A statement of their objections to it, drawn up by Theophilus Parsons, was printed at Newburyport in the form of a pamphlet, entitled, The Result of the Ipswich Convention, and had much influence upon the decisions of the towns. Such county conventions were somewhat frequent in the earlier years of the state, and were a valued means, long since disused, I believe, of collecting and formulating public opinion. A curious feature of the interim between the two attempts of 1778 and 1780, is the rise of a remarkable theory of town autonomy, developed especially in Berkshire county. Thus we find the citizens of Lee voting that they hold themselves "bound to support the Civil Authority of this State for the term of one year and Bound to obey the laws of this State." And a little earlier, Great Barrington votes No, on the question, "Whether, under the situation of this county, not having a new Constitution, and other reasons, the laws of the State ought to operate among us?"

The constitution of 1780, sent forth after longer and calmer deliberation, was received with even more interest and atten-

tion. There were few towns in which it was not discussed fully. In many the meetings, adjourning from day to day, examined it clause by clause, assigned parts of it to select committees for more minute examination, and debated at length the amendments which these reported. It gives an instructive idea of the political value of these small communities, to see the little town of Rowley, whose population cannot then have exceeded thirteen hundred, spending several days discussing the new declaration of rights and frame of government, sentence by sentence, in full town-meeting, and recording their opinions of its successive articles in seventy-five separate votes—votes, too, in which the widely-varying numbers pro and con indicate much independence of judgment; or, again, to observe the moderation and practical good sense with which they urge the adoption of the amendments which they have concluded to recommend; or, once more, to see the evidence of interest and information in politics afforded by such votes as that of Ward, an obscure little farming town of scarcely more than four hundred inhabitants, that "we could heartily wish that representation might be weighed by the number of polls, which would be similar to the proceedings of the Honorable Congress and some neighboring well-regulated States, that have been attended with very wholesome effects." The extent to which the towns entered into the business of examining the new constitution may be inferred from the statement that, if my calculations are not incorrect, the number of amendments to it which they proposed must have amounted to something between six hundred and a thousand. Many of these, of course, duplicated each other; but the evidence of political activity throughout the state is none the less convincing.

Interesting deductions could very likely be made from a tabulation of these amendments in detail; I shall only say that, in general, we can perceive a heightening of confidence in government since 1778, and a consequent lessening of the unwillingness to entrust power to it. On the other hand, many of the amendments desired are identical with those for

which the insurrectionists of 1786 clamored, such as, for instance, the curious request made by several of the hill-towns, that there should be a probate judge, register of probate, and register of deeds in each town.

The article to which objection was most generally made was the third article of the Declaration of Rights, which invested the legislature with authority to require towns to support public worship by taxation. Perhaps it may not be uninteresting to quote at length, in conclusion, the resolution of one of the towns (Westford) upon the article, as a somewhat more extended specimen than has been given hitherto of the political thought of the masses throughout the state. That it is not more than the expression of the views of the average voter, its style seems to indicate clearly. It is as follows:

"Voted, to object against the third article of the Declaration of Rights, and that for the following reasons, viz., that it is asserted and taken for granted in the premises of said article—'that the Happiness of a people and the good order and preservation of civil government, essentially Depends upon Piety, Religion and morality; and these cannot be generally diffused through a Community but by the Institution of the Public Worship of God, and by publick Instruction in piety, Religion, &c.'—When both antient History and modern athentic Information concur to evince that Flourishing civil states have Existed and still exist without the Legislature's Instituting the Public Worship or Publick Instruction in piety and the Christian Religion; but rather whenever such Institutions fully executed by the civil authority have taken place among a people, instead of promoting essentially their Happiness and the good order and Preservation of civil government, it has, we believe, invariably produced impiety, irreligion, Hypocrisy and many sore and oppressive evils.

"We think the third article, if adopted, will be likely to form such a combination between the Court and Clergy that the libertys of the people will be endangered.

"[Nor are we] Intitled to such a Right as is attributed to the people of the Commonwealth in said article of Investing the Legislature with power to authorize or require the several Towns, Parishes, precincts or other bodies politic or Religious Societies to make suitable provision at their own expense for the institution of the public worship of God, and for the support of the public teachers of piety and religion; because we fully believe that the great Head of the Church has in his gospel made suitable provision for the said Institution of his public worship and for the support of Christian teachers of piety and Religion, and that he has never invested any Commonwealth or Civil Legislature as such, by force and penalty, to carry these aforesaid Institutions into executions,—all attempts of which, we think, tend to encroch on the unalienable Rights of conscience, and to the marring of the true principles of civil government, which last ever ought, in our opinion, to be kept Distinct of Religious gospel institutions. Further, it appears to us that the general principles of civil government, as contained in the Constitution, without the said third article, properly attended to and acted upon, would much better secure and promote the Happiness of the people and the good order and preservation of civil government (which we would ever zealosly promote) than retaining and adopting the said third article."

It may be that the instance which I have chosen, the action of the towns on the state constitutions, is one unusually favorable to my argument because, before the erection of the federal government, the formation of constitutions for the states was a matter of prime importance. It may indeed be that the means of investigation which I have been suggesting are neither so novel nor so fruitful as I have believed. But I shall be satisfied if I succeed in drawing increased attention to the main subject of these papers, the careful and scientific study of the constitutional and political history of the individual states.